

Surface Mining Reclamation and Enforcement, Interior

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agency shall promptly make joint inspections to determine whether all operations have been completed in accordance with the requirements of 43 CFR parts 3400, the lease or licenses and the mining plan. Where all of these requirements have been complied with, the liability under the lease bond of the person conducting surface coal mining and reclamation operations shall be terminated.

(3) Where OSM is the regulatory authority, public hearings held with respect to final abandonment and releases of the performance bonds shall be in accordance with 5 U.S.C. 554 and 43 CFR part 4.

[48 FR 6935, Feb. 16, 1983, as amended at 48 FR 44779, Sept. 30, 1983]

PART 745—STATE-FEDERAL COOPERATIVE AGREEMENTS

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AUTHORITY: 30 U.S.C. 1201 *et seq.* and 30 U.S.C. 181 *et seq.*

SOURCE: 48 FR 6939, Feb. 16, 1983, unless otherwise noted.

§ 745.1 Scope.

This part sets forth requirements for the development, approval and administration of cooperative agreements under section 523(c) of the Act.

§ 745.10 Information collection.

(a) In accordance with 44 U.S.C. 3501 *et seq.*, the Office of Management and Budget (OMB) has approved the information collection requirements of this part. The OMB clearance number is 1029-0092. This information is needed to implement section 523(c) of the Act, which allows States to regulate surface coal mining operations on Federal lands under certain conditions. States that desire to enter into cooperative agreements to do so must respond to obtain a benefit.

(b) OSM estimates that the public reporting burden for this part will aver-

age 1,364 hours per respondent, including time spent reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of these information collection requirements, including suggestions for reducing the burden, to the Office of Surface Mining Reclamation and Enforcement, Information Collection Clearance Officer, 1951 Constitution Avenue, N.W., Washington, DC 20240; and the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Interior Desk Officer, 725 17th Street, N.W., Washington, DC 20503. Please refer to OMB Control Number 1029-0092 in any correspondence.

[64 FR 70831, Dec. 17, 1999]

§ 745.11 Application and agreement.

(a) The Governor of any State may request that the Secretary enter into a cooperative agreement with the State, provided the State has an approved State regulatory program or has submitted a regulatory program for approval under part 731 of this chapter, and has or may have within the State surface coal mining and reclamation operations on Federal lands.

(b) A request for a cooperative agreement shall be submitted in writing and, except to the extent previously submitted in the State program, shall include the following information:

(1) Information sufficient for OSM to make findings in accordance with paragraph (f) of this section;

(2) A proposed agreement consistent with the requirements of this part; and

(3) A certification by the Attorney General or the chief legal officer of the State regulatory authority that no State statutory, regulatory or legal constraint exists which would preclude the State regulatory authority from fully carrying out the proposed cooperative agreement.

(c) OSM shall publish a notice of the request and the full text of the terms of the proposed cooperative agreement as submitted or as subsequently modified by OSM and the State in the FEDERAL REGISTER as a proposed rule. A notice of the request and a summary of

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the terms of the proposed agreement shall also be published in a newspaper(s) of general circulation throughout the State. Both notices shall include:

(1) The location at which a copy of the request submitted by the State may be obtained; and

(2) A date, not less than 30 days after publication of the notices, before which members of the public may submit written comments on the request and the person to whom comments should be addressed.

(d) A public hearing shall be held within the comment period in a suitable location in the State requesting the cooperative agreement. This hearing may be combined with public hearings required under part 732 of this chapter for the Secretary's consideration of approval of a State program submission, if appropriate. The date, time and place of the public hearing(s) on the request will be published in the FEDERAL REGISTER not less than 15 days prior to the date of the hearing.

(e) Before the expiration of the comment period, OSM shall consult with the Bureau of Land Management, Fish and Wildlife Service, and Federal land management agencies, as appropriate, with respect to the proposed cooperative agreement.

(f) OSM shall recommend to the Secretary that a cooperative agreement be entered into with a State, if OSM finds that:

(1) The State has an approved State regulatory program;

(2) The State regulatory authority has sufficient budget, equipment and personnel to enforce fully its regulatory program on lands subject to this part in the State; and

(3) The State has the legal authority to enter into the cooperative agreement.

(g) The Secretary shall publish in the FEDERAL REGISTER his or her decision with respect to a request by a State to enter into a cooperative agreement and the reasons therefor and the full text of the cooperative agreement.

§ 745.12 Terms.

Each cooperative agreement shall include:

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(a) Terms obligating the State regulatory authority to inspect all surface coal mining and reclamation operations on Federal lands in accordance with the State regulatory program and to enforce the State program on Federal lands;

(b) A description of the powers and authority reserved by the Secretary, including, but not limited to, those specified under § 745.13;

(c) Provisions for the administration and enforcement by OSM and the State of this subchapter so as to minimize overlap and duplication;

(d) Provisions for regular reports by the State regulatory authority to OSM on the results of the State's implementation and administration of the cooperative agreement.

(e) Terms requiring the State regulatory authority to maintain sufficient personnel and facilities to comply with the terms of the cooperative agreement, and to notify OSM of any substantial change in State statutes, regulations, funding, staff, or other changes which would affect the State's ability to carry out the terms of the cooperative agreement;

(f) Terms for coordination among the State regulatory authority, the Federal land management agency, the Bureau of Land Management and OSM;

(g) Terms obligating the State regulatory authority to—

(1) Make available to OSM information on any action taken regarding any permit application for surface coal mining and reclamation operations on Federal lands; and

(2) Where lands containing leased Federal coal are involved, provide OSM, in the form specified by OSM in consultation with the State, with written findings indicating that each permit application is in compliance with the terms of the regulatory program and a technical analysis of each permit application to assist OSM in meeting its responsibilities under other applicable Federal laws and regulations.

§ 745.13 Authority reserved by the Secretary.

The Secretary shall not delegate to any State, nor shall any cooperative agreement under this part be construed